IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6396 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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N D SHAH - Petitioner

Versus

STATE OF GUJARAT & 1 - Respondents

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Appearance :
Ms. Vinita Vinayak for MR PM THAKKAR for Petitioner:
Mr. K.P. Raval, Ld. AGP for Respondents : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 17/02/2006

ORAL JUDGMENT

1.Ms. Vinita Vinayak, learned counsel for Shri. P.M. Thakkar, learned counsel for the petitioner has produced on record the decision of this Court in case

of ARPITA J. AHUJA & OTHERS Vs. STAATE OF GUJARAT & OTHERS, passed in Special Civil Application No. 4937 of 1995 with Special Civil Application No. 5818 of 1995 and other cognate matters mentioned therein; and submits that the petitioner in the present petition is identically situated and therefore, the grievance of the petitioner can not now be agitated independent of the observations and decision of this Court in case of Arpita J. Ahuja & others (supra) decided on 23/8/1996. However, in the operative part of the judgment this Court has permitted the petitioners therein to continue on the post till fresh selections are made. The petitioners were permitted to apply for the post as and when same were to be advertised by the commission and in the event of there being not selected their appointments shall come to an end automatically without any order of termination.

2. Learned counsel for the petitioner seeks similar direction in the present petition while candidly admitting that the petitioner has no case now to challenge the proposed termination.

3. Learned AGP Shri. Raval for the respondents submits

that such an order would not harm in any way the respondents. When there is judgment of this Court in respect of identically situated other petitioners, the present petitioner can not take her case any further than this. In view of this the petition may be disposed of on issuing only direction that till the regular selectees are not available the petitioner may be permitted to continue on the post and on availability of the regular selectees, her services shall come to an end automatically, without even passing termination order.

4. At this stage Ms. Vinita submits that, this direction, if given, may not be binding in case the petitioner has been selected by due procedure and she has secured employment in pursuant to her due selection. It goes without saying that the petitioner's services will be terminated only when GPSC select candidate is available and she may be continuing only because of the interim order passed in this matter and till the regular selectees are available to man the post.

5. In view of this facts and circumstances, and especially in view of the order in judgment passed by

this Court (Coram: S.K. Keshote, J) in group of Special Civil Applications being 4937 of 1995 and other cognate matters, this petition fails and is accordingly rejected. However, petitioner is permitted to be continued on the post till the regular selectees will arrive for appointment. Once the regular selectee is available to man the post which is held by the petitioner, then, in that case, the petitioner shall have no right to continue thereon and her services will come to an end automatically without any requirement of termination order. Rule is discharged, subject to the aforesaid direction, with no order as to costs.

Interim relief granted earlier is vacated, subject to the above directions.

[S.R. BRAHMBHATT, J]

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